

104TH CONGRESS
2D SESSION

H. R. 3483

To amend title 5, United States Code, to enable Federal agencies to design personnel systems suited to their missions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 1996

Mr. MORAN (for himself and Mr. MICA) (both by request) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 5, United States Code, to enable Federal agencies to design personnel systems suited to their missions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Personnel Sys-
5 tems Reinvention Act of 1996”.

1 **SEC. 2. REDESIGN OF THE OFFICE OF PERSONNEL MAN-**
2 **AGEMENT.**

3 (a) FUNCTIONS.—Section 1103(a) of title 5, United
4 States Code, is amended—

5 (1) by amending paragraph (5) to read as fol-
6 lows:

7 “(5) executing, administering, and enforcing
8 the laws, rules, and regulations governing the civil
9 service, except with respect to functions for which
10 the Merit Systems Protection Board or the Special
11 Counsel is primarily responsible;”;

12 (2) by striking paragraph (6) and redesignating
13 paragraphs (7) through (9) as paragraphs (6)
14 through (8), respectively;

15 (3) in paragraph (7) (as so redesignated) by
16 striking “and” after the semicolon;

17 (4) in paragraph (8) (as so redesignated) by
18 striking the period and inserting a semicolon; and

19 (5) by adding at the end the following:

20 “(9) serving as a point of contact for Congress
21 on issues concerning accountability for the executive
22 branch’s management of human resources;

23 “(10) conducting broad systemic reviews of var-
24 ious aspects of the Federal personnel system; work-
25 ing with agencies to address problems, including
26 helping agency heads ensure that appropriate action

1 is taken when violations of law are found; and, when
2 necessary, informing the President of serious viola-
3 tions of merit system principles and directing appro-
4 priate action;

5 “(11) exercising a leadership role in helping
6 agencies build more diverse, highly trained, and
7 competent workforces;

8 “(12) overseeing the application and enforce-
9 ment of veterans’ preference in Federal employment,
10 in accordance with the provisions of chapter 33;

11 “(13) assisting agencies in establishing their
12 own capacity to evaluate the effectiveness of their
13 human resource management programs;

14 “(14) coordinating interagency cooperation on
15 common human resources management concerns;

16 “(15) administering the governmentwide civilian
17 pay systems established under subchapters II, IV,
18 and VIII of chapter 53, sections 5372 and 5376,
19 and related provisions of law;

20 “(16) administering the governmentwide em-
21 ployee benefits programs established under chapter
22 63, subchapter III of chapter 83, subchapters I, II,
23 IV, V, and VI of chapter 84, and chapters 87 and
24 89;

1 “(17) operating the governmentwide employ-
2 ment information system under sections 3327 and
3 3330;

4 “(18) providing reimbursable human resources
5 services, including staffing and classification serv-
6 ices, to agencies and other entities; and

7 “(19) maintaining governmentwide data bases
8 on Federal employees.”.

9 (b) SPECIAL AUTHORITY.—Chapter 13 of title 5,
10 United States Code, is amended—

11 (1) in section 1302—

12 (A) in subsections (b) and (c) by striking
13 “, and in the government of the District of Co-
14 lumbia”; and

15 (B) by striking subsection (d);

16 (2) in section 1304—

17 (A) by amending the heading to read as
18 follows:

19 **“§ 1304. Revolving fund; reports”;**

20 (B) by striking subsections (a) through (d)
21 and redesignating subsections (e) through (g)
22 as subsections (a) through (c), respectively; and

23 (C) in subsection (a)(1) (as so redesign-
24 nated) by amending the first sentence to read
25 as follows: “A revolving fund is available to the

1 Office, without fiscal year limitation, for financ-
2 ing such functions as the Office is authorized or
3 required to perform on a reimbursable basis, in-
4 cluding services performed at the request of in-
5 dividual agencies (which would otherwise be the
6 responsibility of such agencies).”;

7 (3) by repealing section 1307;

8 (4) by amending section 1308 to read as fol-
9 lows:

10 **“§ 1308. Reports**

11 “The Office shall submit such reports to the Presi-
12 dent from time to time as it deems necessary on matters
13 within its purview, including summaries of its research
14 studies, reports on demonstration projects conducted
15 under chapter 47, and reports concerning the administra-
16 tion of employee benefits programs established under sub-
17 chapter III of chapter 83, subchapters I, II, IV, V, and
18 VI of chapter 84, and chapters 87 and 89.”; and

19 (5) in the table of sections—

20 (A) by amending the item relating to sec-
21 tion 1304 to read as follows:

“1304. Revolving fund; reports.”;

22 (B) by repealing the item relating to sec-
23 tion 1307; and

1 (C) by amending the item relating to sec-
 2 tion 1308 to read as follows:

“1308. Reports.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall take effect on the date of the enactment
 5 of this Act.

6 **SEC. 3. HIRING SYSTEM REFORM.**

7 (a) IN GENERAL.—Chapter 33 of title 5, United
 8 States Code, is amended—

9 (1) by inserting after section 3318 the fol-
 10 lowing:

11 **“§ 3319. Alternative ranking and selection procedures**

12 “(a) Notwithstanding sections 3309, 3313, 3317(a),
 13 and 3318(a)—

14 “(1) the Office, in exercising its authority
 15 under section 3304, or

16 “(2) an agency to which the Office has dele-
 17 gated examining authority under section 1104(a)(2),
 18 may establish category rating systems for evaluating job
 19 applicants for positions in the competitive service, under
 20 which qualified candidates are divided into 2 or more qual-
 21 ity categories on the basis of relative degrees of merit,
 22 rather than assigned individual numerical ratings. Each
 23 applicant who meets the minimum qualification require-
 24 ments for the position to be filled shall be assigned to an
 25 appropriate category based on an evaluation of the appli-

1 cant's knowledge, skills, and abilities relative to those
2 needed for successful performance in the job to be filled.

3 “(b) Within each quality category established under
4 subsection (a), preference eligibilities shall be listed ahead
5 of individuals who are not preference eligibles. For other
6 than scientific and professional positions at or higher than
7 GS-9 (or equivalent), preference eligibles who have a com-
8 pensable service-connected disability of 10 percent or
9 more, and who meet the minimum qualification standards,
10 shall be listed in the highest quality category.

11 “(c) An appointing authority may select any appli-
12 cant in the highest quality category or, if fewer than three
13 candidates have been assigned to the highest quality
14 category, in a merged category consisting of the highest
15 and the second highest quality categories. Notwithstand-
16 ing the preceding sentence, the appointing authority may
17 not pass over a preference eligible in the same category
18 from which selection is made, unless the requirements of
19 section 3317(b) or 3318(b), as applicable, are satisfied.

20 “(d) The Office of Personnel Management may pre-
21 scribe such regulations as it considers necessary to carry
22 out the provisions of this section.”;

23 (2) by amending section 3341 to read as fol-
24 lows:

1 **“§ 3341. Details; within Executive agencies and mili-**
 2 **tary departments; employees affected by**
 3 **reduction in force**

4 “(a) The head of an Executive agency or military
 5 department may detail employees, except those required
 6 by law to be engaged exclusively in some specific work,
 7 among the bureaus and offices of the agency or depart-
 8 ment.

9 “(b) The head of an Executive agency or military
 10 department may detail to duties in the same or another
 11 agency or department, on a nonreimbursable basis, an em-
 12 ployee who has been identified by the employing agency
 13 as likely to be separated from the Federal service by re-
 14 duction in force or who has received a specific notice of
 15 separation by reduction in force.

16 “(c) Details under subsection (a) may not be for
 17 periods exceeding 120 days. These details may be renewed
 18 by written order of the head of the agency or department,
 19 in each particular case, for periods not exceeding 120
 20 days.”; and

21 (3) in the table of sections—

22 (A) by amending the item relating to sec-
 23 tion 3319 to read as follows:

“3319. Alternative ranking and selection procedures.”; and

24 (B) by amending the item relating to sec-
 25 tion 3341 to read as follows:

“3341. Details; within Executive agencies and military departments; employees affected by reduction in force.”.

1 (b) EFFECTIVE DATE.—(1) Except as provided by
2 paragraph (2), the amendments made by subsection (a)
3 shall take effect 180 days after the date of the enactment
4 of this Act.

5 (2) The amendments made by paragraph (2) of sub-
6 section (a) shall take effect 30 days after the date of the
7 enactment of this Act.

8 **SEC. 4. AMENDMENTS TO INCENTIVE AWARDS AUTHORITY.**

9 (a) IN GENERAL.—Chapter 45 of title 5, United
10 States Code, is amended—

11 (1) by amending section 4501 to read as fol-
12 lows:

13 **“§ 4501. Definitions**

14 “For the purpose of this subchapter—

15 “(1) the term ‘agency’ means—

16 “(A) an Executive agency;

17 “(B) the Library of Congress;

18 “(C) the Office of the Architect of the
19 Capitol;

20 “(D) the Botanic Garden;

21 “(E) the Government Printing Office; and

22 “(F) the United States Sentencing Com-
23 mission;

24 but does not include—

1 “(i) the Tennessee Valley Authority; or

2 “(ii) the Central Bank for Cooperatives;

3 “(2) the term ‘employee’ means an employee as
4 defined by section 2105; and

5 “(3) the term ‘Government’ means the Govern-
6 ment of the United States.”;

7 (2) by amending section 4503 to read as fol-
8 lows:

9 **“§ 4503. Agency awards**

10 “The head of an agency may pay a cash award to,
11 and incur necessary expenses for the honorary recognition
12 of, an employee who, as an individual or a member of a
13 group—

14 “(1) by a suggestion, invention, superior
15 individual or group accomplishment, sustained supe-
16 rior performance, or other personal effort contrib-
17 utes to the efficiency, economy, or other improve-
18 ment of Government operations or achieves a signifi-
19 cant reduction in paperwork; or

20 “(2) performs a special act or service in the
21 public interest in connection with or related to
22 official employment.”;

23 (3) by repealing section 4505a;

1 (4) in section 4508(b) by striking “an award”
2 and inserting “a cash award or time-off-from-duty
3 award”; and

4 (5) in the table of sections by repealing the
5 item relating to section 4505a.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act.

9 **SEC. 5. DEMONSTRATION PROJECTS.**

10 (a) IN GENERAL.—Chapter 47 of title 5, United
11 States Code, is amended—

12 (1) in section 4701(a)(1) by striking subpara-
13 graph (A) and by redesignating subparagraphs (B)
14 and (C) as subparagraphs (A) and (B), respectively;

15 (2) in section 4703—

16 (A) in subsection (b)—

17 (i) by striking paragraph (3) and re-
18 designating paragraphs (4) through (6) as
19 paragraphs (3) through (5), respectively;
20 and

21 (ii) in paragraph (3) (as so redesign-
22 nated) by striking “180 days” and insert-
23 ing “150 days”;

24 (B) by striking subsections (d), (e), (h),
25 and (i);

1 (C) by redesignating subsections (f) and
2 (g) as subsections (l) and (m), respectively; and
3 (D) by inserting after subsection (c) the
4 following:

5 “(d)(1) Before the end of the 5-year period beginning
6 on the date on which a demonstration project takes effect,
7 the Office shall determine whether the project shall be—

8 “(A) terminated;

9 “(B) continued beyond the end of such 5-year
10 period to the extent necessary to validate the results
11 of the project; or

12 “(C) made permanent, subject to paragraph
13 (3).

14 “(2) Before making a determination under paragraph
15 (1), the Office may provide for an evaluation of the results
16 of the demonstration project and its impact on improving
17 public management. Upon request of the Director of the
18 Office, agencies shall cooperate with and assist the Office,
19 to the extent practicable, in any evaluation undertaken
20 under this paragraph and provide the Office with re-
21 quested information and reports relating to demonstration
22 projects in their agencies.

23 “(3)(A) Before extending a project under paragraph
24 (1)(B) or making a project permanent under paragraph
25 (1)(C), the Office shall publish a notice in the Federal

1 Register of its intention to do so. In addition, the Office
2 shall notify in writing both Houses of Congress of its in-
3 tention to make a project permanent. A project may not
4 be made permanent if a joint resolution is enacted, in ac-
5 cordance with this section, disapproving the proposal to
6 make the project permanent before the earlier of—

7 “(i) the end of the 90-day period beginning on
8 the date on which the Office transmits its rec-
9 ommendation to Congress; or

10 “(ii) the adjournment of Congress sine die for
11 the session during which such recommendation is
12 transmitted.

13 “(B) For purposes of subparagraph (A), the days on
14 which either House of Congress is not in session because
15 of an adjournment of more than 3 days to a day certain
16 shall be excluded in the computation of a 90-day period.

17 “(e) For purposes of this section, the term ‘joint res-
18 olution’ means only a joint resolution which is introduced
19 within the 10-day period beginning on the date on which
20 the Office transmits its proposal to the Congress under
21 subsection (d)(1)(C), the matter after the resolving clause
22 of which is as follows: ‘That the Congress disapproves of
23 the proposal of the Office of Personnel Management under
24 section 4703(d)(1)(C) of title 5, United States Code, as

1 submitted on .’, the blank space being filled in with
2 the appropriate date.

3 “(f) A resolution described in subsection (e) that is
4 introduced in the House of Representatives shall be re-
5 ferred to the Committee on Government Reform and Over-
6 sight of the House of Representatives. A resolution de-
7 scribed in subsection (e) that is introduced in the Senate
8 shall be referred to the Committee on Governmental Af-
9 fairs of the Senate.

10 “(g) If the committee to which a resolution described
11 in subsection (e) is referred has not reported such resolu-
12 tion by the end of the 20-day period beginning on the date
13 on which the Office transmits its proposal to the Congress
14 under subsection (d)(1)(C), such committee shall, at the
15 end of such period, be discharged from further consider-
16 ation of such resolution, and such resolution shall be
17 placed on the appropriate calendar of the House involved.

18 “(h)(1) On or after the third day after the date on
19 which the committee to which such a resolution is referred
20 has reported, or has been discharged (under subsection
21 (g)) from further consideration of, such a resolution, it
22 shall be in order (even though a previous motion to the
23 same effect has been disagreed to) for any Member of the
24 respective House to move to proceed to the consideration
25 of the resolution. A Member may make the motion only

1 on the day after the calendar day on which the Member
2 announces to the House concerned the Member's intention
3 to make the motion, except that, in the case of the House
4 of Representatives, the motion may be made without such
5 prior announcement if the motion is made by direction of
6 the committee to which the resolution was referred. All
7 points of order against the resolution (and against consid-
8 eration of the resolution) are waived. The motion is highly
9 privileged in the House of Representatives and is privi-
10 leged in the Senate and is not debatable. The motion is
11 not subject to amendment, or to a motion to postpone,
12 or to a motion to proceed to the consideration of other
13 business. A motion to reconsider the vote by which the
14 motion is agreed to or disagreed to shall not be in order.
15 If a motion to proceed to the consideration of the resolu-
16 tion is agreed to, the respective House shall immediately
17 proceed to consideration of the joint resolution without in-
18 tervening motion, order, or other business, and the resolu-
19 tion shall remain the unfinished business of the respective
20 House until disposed of.

21 “(2) Debate on the resolution, and on all debatable
22 motions and appeals in connection therewith, shall be lim-
23 ited to not more than 1 hour, to be divided equally between
24 those favoring and those opposing the resolution. An
25 amendment to the resolution is not in order. A motion fur-

1 ther to limit debate is in order and not debatable. A mo-
2 tion to postpone, or a motion to proceed to the consider-
3 ation of other business, or a motion to recommit the reso-
4 lution is not in order. A motion to reconsider the vote by
5 which the resolution is agreed to or disagreed to is not
6 in order.

7 “(3) Immediately following the conclusion of the de-
8 bate on a resolution described in subsection (e) and a sin-
9 gle quorum call at the conclusion of the debate if re-
10 quested in accordance with the rules of the appropriate
11 House, the vote on final passage of the resolution shall
12 occur.

13 “(4) Appeals from the decisions of the Chair relating
14 to the application of the rules of the Senate or the House
15 of Representatives, as the case may be, to the procedure
16 relating to a resolution described in subsection (e) shall
17 be decided without debate.

18 “(i)(1) If, before the passage by one House of a reso-
19 lution of that House described in subsection (e), that
20 House receives from the other House a resolution de-
21 scribed in subsection (e), then the following procedures
22 shall apply:

23 “(A) The resolution of the other House shall
24 not be referred to a committee and may not be con-

1 sidered in the House receiving it except in the case
2 of final passage as provided in subparagraph (B)(ii).

3 “(B) With respect to a resolution described in
4 subsection (e) of the House receiving the resolu-
5 tion—

6 “(i) the procedure in that House shall be
7 the same as if no resolution had been received
8 from the other House; but

9 “(ii) the vote on final passage shall be on
10 the resolution of the other House.

11 “(2) Upon disposition of the resolution received from
12 the other House, it shall no longer be in order to consider
13 the resolution that originated in the receiving House.

14 “(j) Subsections (e) through (i) are enacted by Con-
15 gress—

16 “(1) as an exercise of the rulemaking power of
17 the Senate and House of Representatives, respec-
18 tively, and as such are deemed a part of the rules
19 of each House, respectively, but applicable only with
20 respect to the procedure to be followed in that
21 House in the case of a resolution described in sub-
22 section (e), and shall supersede other rules only to
23 the extent inconsistent with such rules; and

24 “(2) with full recognition of the constitutional
25 right of either House to change the rules (so far as

1 relating to the procedure of that House) at any time,
2 in the same manner, and to the same extent as in
3 the case of any other rule of that House.

4 “(k) After consulting with the agency involved, the
5 Office may terminate a demonstration project at any time
6 if it determines that the project—

7 “(1) is not consistent with merit system prin-
8 ciples set forth in section 2301, veterans’ preference
9 principles, or the provisions of this chapter; or

10 “(2) otherwise imposes a substantial hardship
11 on, or is not in the best interests of, the public, the
12 Government, employees, or eligibles.”;

13 (E) by adding after subsection (m) (as so
14 redesignated by subparagraph (C)) the follow-
15 ing:

16 “(n) Funds appropriated to the Office for the pur-
17 pose of this chapter may be allocated by the Office to any
18 agency conducting demonstration projects or assisting the
19 Office in conducting such projects. Funds so allocated
20 shall remain available for such period as may be specified
21 in appropriation Acts.”;

22 (3) by repealing sections 4704 and 4705;

23 (4) by redesignating section 4706 as section
24 4704;

1 (5) in section 4704 (as so redesignated) by
2 striking “shall prescribe regulations” and inserting
3 “may prescribe regulations”; and

4 (6) in the table of sections by striking the items
5 relating to sections 4704 and 4705 and by striking
6 “4706” and inserting “4704”.

7 (b) EFFECTIVE DATE.—(1) Subject to paragraph
8 (2), this section and the amendments made by this section
9 shall take effect on the date of the enactment of this Act.

10 (2)(A) Except as provided by subparagraph (B), the
11 amendments made by this section shall have no effect on
12 any demonstration project being conducted under chapter
13 47 of title 5, United States Code, on the date of the enact-
14 ment of this Act.

15 (B) Section 4703(d), as amended by subsection
16 (a)(2)(D), shall apply with respect to demonstration
17 projects being conducted under chapter 47 of such title
18 5 on the date of the enactment of this Act, except that
19 the 5-year time limit for a determination under paragraph
20 (1) of such section 4703(d) shall not apply with respect
21 to any such projects that were initiated more than 5 years
22 before the date of the enactment of this Act.

1 **SEC. 6. STREAMLINING FEDERAL DISPUTE RESOLUTION**
2 **PROCESSES.**

3 (a) IN GENERAL.—Title 5, United States Code, is
4 amended—

5 (1) in chapter 43—

6 (A) in section 4302(b)(6) by striking “or
7 removing employees who continue to have unac-
8 ceptable performance but only after an oppor-
9 tunity to demonstrate acceptable performance”
10 and inserting “removing, or taking other appro-
11 priate action against employees whose perform-
12 ance is unacceptable”;

13 (B) by repealing section 4303; and

14 (C) in the table of sections by repealing
15 the item relating to section 4303;

16 (2) in section 5335(c)—

17 (A) by striking the second sentence;

18 (B) in the next to last sentence by striking
19 “or appeal”; and

20 (C) in the last sentence by striking “and
21 the entitlement of the employee to appeal to the
22 Board do not apply” and inserting “does not
23 apply”; and

24 (3) in section 7513(b)(1) by striking “30” and
25 inserting “15”.

1 (b) CONFORMING AMENDMENTS.—Title 5, United
2 States Code, is amended—

3 (1) in section 7121 (e)(1), (e)(2), and (f) by
4 striking “sections 4303 and 7512 of this title” each
5 place it appears and inserting “section 7512”;

6 (2) in section 7512 by inserting “or” at the end
7 of subparagraph (C), by striking subparagraph (D),
8 and by redesignating subparagraph (E) as subpara-
9 graph (D);

10 (3) in section 7513(a) by striking the period
11 and inserting “, including an action based on unac-
12 ceptable performance.”; and

13 (4) in section 7701(c)(1)(A) by striking “an ac-
14 tion based on unacceptable performance described in
15 section 4303 or”.

16 (c) EFFECTIVE DATE.—(1) Subject to paragraphs
17 (2) and (3), this section and the amendments made by
18 this section shall take effect 180 days after the date of
19 the enactment of this Act.

20 (2) The amendments made by subsection (a)(1) shall
21 not apply in the case of an employee who, before the effec-
22 tive date of this section, receives advance written notice
23 of a proposed action under section 4303(b)(1)(A) of title
24 5, United States Code.

1 (3) The amendment made by subsection (a)(2) shall
2 not apply to an individual who, before the effective date
3 of this section, receives written notice of his or her right
4 to appeal a determination under section 5335(a) of title
5 5, United States Code.

